THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION No.26903 of 2005

-

Dated:02.01.2006

Between:

Mohd.Habibuddin S/o.Mohd.Alimuddin
R/o.Turkalamaddikunta village, padapalli Mandal Karimnagar District,

and others.

..... PETITIONERS

AND

The District Collector, Karimnagar District, and others.

.....RESPONDENTS

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION No.26903 of 2005

-

ORDER:

-

The seven petitioners are residents of Turkalamaddikunta Village, Padapalli Mandal, Karimnagar District. They filed the instant writ petition seeking a declaration that the action of the respondents in widening the road from Kasulapalli to Turkalamaddikunta Village (hereinafter called 'the new road' for brevity), allegedly affecting the lands in Survey Nos.173, 175, 172, 171, 26, 27, 77, 697 and 710 situated at Turkalamaddikunta Village, Peddapalli Mandal, Karimnagar District, without following due process of law as illegal and arbitrary.

It is the case of the petitioners that all of them are owners of agricultural lands comprised in various survey numbers mentioned hereinabove, and they are cultivating the lands regularly. They allege that the existing road is being widened to 50 feet affecting the petitioners' lands and the respondents are highhandedly trying to widen the road without due process of law.

At the stage of admission itself, the third respondent has filed a detailed counter affidavit. It is stated that the road in question is an existing road formed by the Department about 12 years ago to a length of 4.75 km having 7.5 mts top width and bottom side corresponding slopes. The re-laying of the road has been sanctioned under an award programme and the work is awarded to M/s.Madava Constructions, Karimnagar, with an agreement value of Rs.56.2 lakhs and the entire work is to be completed by 13.08.2006. It is further stated that the existing road is improved with 7.5 mts top width, and the cuddy stone C.D. work at km 2/750 with 7.50 mts width has already been constructed by the Department. When the work was taken up, the petitioners expressed their willingness on 16.12.2005. The work was already completed by November 2005.

The petitioners have filed a detailed reply affidavit denying various averments. According to the petitioners, the Government accorded administrative sanction vide G.O.Ms.No.1404, dated 07.07.2005, and therefore, the work could not have been completed by November 2005. It is further stated that the road is not of even width and at different places, the width of the road is varying. While denying that the existing road is being strengthened, the petitioners assert that the respondents are laying the road by widening the same. The allegation made in the counter that some of the petitioners gave their consent or willingness for strengthening/widening the road is denied. It is also alleged that the respondents by force obtained consent in violation of principles of natural justice.

The learned Counsel for the petitioners vehemently contends that even according to the respondents, the width of the road is not uniform, and therefore, the contention that 7.5 mts top portion of the road is being strengthened cannot be accepted. Secondly, he would urge that actually a portion of the petitioners' land is being affected rendering the balance land useless, and therefore, without resorting to the provisions of the Land Acquisition Act, 1894, the respondents cannot be permitted to proceed with the work. **Per contra,** the learned Assistant Government Pleader for Panchayat Raj has placed strong reliance on the letters of consent given by various ryots owning the lands in Survey numbers mentioned hereinabove in support of the contention that when the affected parties themselves have no objection for strengthening or widening the road, the writ petition is not maintainable. He vehemently contends that while strengthening the existing road, which was laid 12 years ago, the top width as well as the bottom side corresponding slopes have been taken into consideration and no part of the private land has been utilized for strengthening the road.

The core question that falls for consideration is whether the new road is being laid or the existing road is being strengthened? The Executive Engineer - the third respondent - who filed a counter affidavit, categorically asserts that no road is being laid, and the existing road is being strengthened to a length of 4.75 kms. The petitioners seem to be under the impression that the existing road refers to 7.5 mts top width, which seems to be not correct. The existing road refers to 7.5 mts top as well as bottom side corresponding slopes, which were formed 12 years ago. In the absence of any denial that there has been a road laid by the Engineering wing of the Panchayat Raj 12 years ago, the presumption must go in favour of the contesting

respondents. If the petitioners have still any grievance or evidence to show that their part of the land was utilized, they may make a representation to the District Collector in this regard for appropriate enquiry. In this writ petition, no relief can be granted to the petitioners.

The Writ Petition, with the above observations, is dismissed. No costs.

_____

(V.V.S.RAO, J)

02.01.2006

vs